

UNITED STATES INTERNATIONAL TRADE COMMISSION

**COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2004):
EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO APPAREL
MADE WITH CERTAIN FLANNEL FABRICS FROM
CARRIBEAN BASIN COUNTRIES**

Investigation No. 332-458-005

April 2004



Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-005

Products	Apparel of certain flannel fabrics
Requesting Parties	Dillard's, Inc., Little Rock, AR, and BWA, Inc., New York, NY
Date of Commission Report: USTR Public	April 15, 2004 April 2004
Commission Contact	Cynthia Trainor (202-205-3354; cynthia.trainor@usitc.gov)

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR
ON APRIL 15, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN
REMOVED AND REPLACED WITH ASTERISKS (***)

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from certain flannel fabrics, regardless of the source of the fabrics, would have no adverse effect on existing U.S. producers of such fabrics and their workers, because there currently is no known domestic production of the subject fabrics. However, two U.S. fabric producers assert that they can produce the subject fabrics to customer contract specifications. The proposed preferential treatment could have an adverse effect on U.S. producers of apparel and their workers, but would likely benefit U.S. firms making the apparel in the Caribbean Basin and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004.¹ Petitions are filed with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).

The Commission's advice in this report concerns a petition received by CITA on March 4, 2004, alleging that certain flannel fabrics for use in apparel cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA countries from such fabrics, regardless of the source of the fabrics. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth (1) the action proposed to be implemented, (2) the reasons for such

¹ For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of February 9, 2004 (69 F.R. 6003) and the Commission's website at www.usitc.gov/332s/shortsup/shortsupintro.htm.

action, and (3) the advice obtained from the Commission² and the appropriate advisory committee within 60 days after a request is received from an interested party.³

Discussion of the product

According to the petition, the flannel fabrics are classified in subheading 5208.43.00 of the Harmonized Tariff Schedule of the United States (HTS), which provides for woven fabrics of cotton, containing 85 percent or more by weight of cotton, weighing not more than 200 grams per square meter, of yarns of different colors, and of the construction 3-thread or 4-thread twill, including cross twill. As a result of Uruguay Round tariff concessions, the United States phased out the general rate of duty on flannel fabrics as of January 1, 2004. The subject flannel fabrics, which have a soft, raised or fuzzy surface, are for use in apparel (except gloves), particularly shirts, blouses, sleepwear, underwear, and trousers. The 2004 general rates of duty on such apparel articles, which are classified in HTS chapter 62 (apparel, not knitted or crocheted), range from 6.1 percent to 19.7 percent ad valorem.

The petition was filed on behalf of Dillard's, Inc., Little Rock, AR, and BWA, Inc., New York, NY, a large U.S. apparel retailer and apparel manufacturer, respectively. The petition states that the firms plan to use the subject fabrics in the production of garments, including shirts, blouses, robes, sleepwear, and underwear and intend to sew the garments in El Salvador, Guatemala, Honduras, the Dominican Republic, and Nicaragua. According to the petition, the subject fabrics are lightweight yarn-dyed woven flannel fabrics, wholly of cotton, weigh 200 grams per square meter or less, and are made of 14 through 41 NM single ring-spun yarns⁴ and in a 2x1 twill weave construction.⁵ In the petition, petitioners note that the fabrics are "almost identical" to the flannel fabrics granted a "commercial availability designation" under the CBTPA in July 2003, except that the subject fabrics are constructed in a 2x1 twill weave while the CBTPA-designated flannel fabrics are constructed in a 2x2 twill weave.⁶ Petitioners assert that there is no domestically made fabric available in commercial quantities that can be substituted for the subject flannel fabrics and that certain consumers and retailers are not prepared to accept another fabric.

Discussion of affected U.S. industries, workers, and consumers

The segments of the U.S. textile and apparel sector potentially affected by the proposed preferential treatment are yarn spinners and dyers, fabric producers, and apparel manufacturers. Commission staff contacted the only two firms known to weave cotton flannel fabrics in the United States for apparel: Dan River Inc., Danville, VA, and Wade Manufacturing Co., Wadesboro, NC. Both firms have vertically integrated operations in which they weave flannel fabrics from yarns produced in their own facilities; ***.

² As stated in the *Trade and Development Act of 2000*, Pub. L. No. 106-200, §211, 114 Stat. 2d, 279 (2000).

³ In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

⁴ The term NM (number metric) means the number of 1,000-meter lengths of yarn in one kilogram.

⁵ A twill weave is often described in terms of the pattern of warp yarns crossing filling yarns; in a 2x1 weave, the first digit refers to the number of filling yarns crossed over by the warp and the second digit to the number of filling yarns under which the warp passes before returning to cross the filling again. See Phyllis G. Tortora and Billie J. Collier, *Understanding Textiles*, 5th ed. (Upper Saddle River, NJ: Prentice-Hall, Inc., 1997), pp. 270, 271, and 276.

⁶ Flannel fabrics of a kind covered by the petition under review, whether of a 2x1 or 2x2 twill weave construction, have been the subject of several commercial availability petitions. In June 2002, CITA received a petition from Intradeco Corp., Miami, FL, covering woven cotton flannel fabrics of a 2x2 twill weave construction; it denied the petition in August 2002. In April 2003, CITA received a new petition from counsel on behalf of Intradeco and several other firms that narrowed the scope of the 2002 petition. As USTR had already obtained and provided to CITA advice from the Commission in response to the 2002 request, USTR did not do so again. On July 23, 2003, CITA announced that it had determined that certain cotton flannel fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and, therefore, designated apparel articles (except gloves) made in eligible CBTPA countries from the subject fabrics as eligible for duty-free and quota-free treatment under the commercial availability provisions of the CBTPA (see CITA's notice in the *Federal Register* of July 29, 2003 (68 F.R. 44528)). On February 13, 2004, CITA received a petition from Oxford Industries, which was the subject of a recent Commission request from USTR (Inv. No. 332-458-004). On March 4, 2004, CITA received the current petition on cotton flannel fabrics.

Dan River stated that ***.⁷ ***.

Wade Manufacturing stated that ***.⁸

According to Dillard's, ***.⁹

BWA, Inc., New York, NY, ***.¹⁰

With regard to apparel, Commission staff contacted J.C. Penney, Plano, TX; the Kellwood Co., Chesterfield MO; L.L. Bean, Freeport, ME; and Wal-Mart Stores, Inc., Bentonville, AR. J.C. Penney stated that ***.¹¹

Kellwood, a firm whose product lines include men's, women's, children's, and infants' apparel, including sleepwear, casual wear, sporting specialty apparel, and career wear, asserted that the subject fabric is not available from U.S. producers and that there are no substitutes for the subject fabric. Kellwood further indicated that ***.¹²

L.L. Bean stated that ***.¹³

Wal-Mart Stores, Inc. stated that ***.¹⁴

Views of interested parties

The Commission received a written submission in support of the petition from Kellwood, a major U.S.-based apparel manufacturer and marketer with facilities in over 20 states in the United States and 2003 sales of over \$2.4 billion. Kellwood stated that it uses both printed and yarn-dyed flannel fabrics of various weights in its apparel production, and stated that during 1999-2003, U.S. producers of yarn-dyed flannel fabrics elected to discontinue production of the fabrics.¹⁵

The Commission received two written submissions in opposition to the petition from Wade Manufacturing and Dan River. Wade Manufacturing stated that it could produce the subject fabrics in commercial quantities in a timely manner.¹⁶ Dan River stated that it manufactures 100-percent cotton flannel fabrics in a 2x1 twill weave and weighing less than 200 grams per square meter, at its plant in Danville, VA.¹⁷ Dan River said that it is currently equipped to supply in excess of 100,000 yards per week of the subject fabrics.

⁷ ***, telephone interview by Commission staff, Mar. 16 and 22, 2004.

⁸ ***, telephone interview by Commission staff, Mar. 16, 2004.

⁹ ***, telephone interview by Commission staff, Apr. 5, 2004.

¹⁰ ***, telephone interview by Commission staff, Apr. 5, 2004.

¹¹ ***, telephone interview by Commission staff, Apr. 5, 2004.

¹² ***, telephone interview by Commission staff, Mar. 11, 2004.

¹³ ***, telephone interview by Commission staff, Mar. 25, 2004.

¹⁴ ***, telephone interview by Commission staff, Apr. 5, 2004, and e-mail to Commission staff, Apr. 7, 2004.

¹⁵ Wendy Wieland Martin, Vice President International Trade, Kellwood Co., written submission to the Commission, Mar. 15, 2004. Kellwood further indicated that the lack of U.S. production, combined with the denial of a 2002 short supply petition covering yarn-dyed flannel fabric, resulted in Kellwood's relocation of production from an assembly factory in El Salvador (under CBTPA) to Mexico (under NAFTA) and to Asia. Kellwood asserted that movement of its assembly operations from the Western Hemisphere further resulted in a loss of U.S. mill sales of fabrics complementary to these production processes.

¹⁶ Bernard M. Hodges, President, Wade Manufacturing Co., written submission to the Commission, Mar. 19, 2004.

¹⁷ E. Linwood Wright, Vice President, Quality and Development, Dan River Inc., written submission to the Commission, Mar. 18, 2004.

Probable economic effect advice¹⁸

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, would have no immediate adverse effect on U.S. producers of flannel fabrics and their workers, because there currently is no known domestic commercial production of the subject fabrics.¹⁹ However, two U.S. fabric producers assert that they have and can produce the subject fabrics. These U.S. fabric producers stated that they no longer hold inventories of flannel fabrics, but rather produce the fabrics to customer contract specifications. The proposed preferential treatment would not adversely affect U.S. yarn producers, because the two U.S. fabric producers weave flannel fabrics from yarns made in their own facilities. Although information on the quality, price, and delivery time of imported fabrics was not readily available, industry sources indicate that differences between domestic and imported fabrics are likely to be small ***.

The proposed preferential treatment could have an adverse effect on U.S. producers of the apparel and their workers. However, it would likely marginally benefit U.S. and other firms making apparel in eligible CBTPA countries from the subject fabrics through employment of U.S. personnel, in the United States, who are engaged in activities (e.g, designing, planning, and marketing) related to that foreign production. U.S. consumers of apparel made from the subject fabrics would benefit from the proposed preferential treatment to the extent that importers pass on some of the duty savings to retain consumers in today's highly competitive flannel apparel market.

¹⁸ The Commission's advice is based on information currently available to the Commission.

¹⁹ ***.